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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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MICHAEL ROY PARKINSON,

Plaintiff,

v.

SIM GILL et al.,

Defendants.

**ORDER & MEMORANDUM DECISION**

Case No. 2:15-CV-796-JNP

District Judge Jill N. Parrish

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Plaintiff, inmate Michael Roy Parkinson, filed this *pro se* civil rights suit, *see* 42 U.S.C.S. § 1983 (2016), *in forma pauperis*, *see* 28 id. § 1915. The Court now screens his Amended Complaint and orders Plaintiff to file a second amended complaint to cure deficiencies before further pursuing his claims.

**Deficiencies in Amended Complaint**

Amended Complaint:

- (a) is not on the form required by the Court.
- (b) is perhaps supplemented with claims from a motion filed on December 3, 2015, and a supplemental pleading filed on February 18, 2016, which claims should be included in an amended complaint, if filed, and will not be treated further by the Court unless properly included.

**Instructions to Plaintiff**

Rule 8 of the Federal Rules of Civil Procedure requires a complaint to contain "(1) a short and plain statement of the grounds for the court's jurisdiction . . . ; (2) a short and plain statement of the claim showing that the pleader is entitled to relief; and (3) a demand for the relief sought." Rule 8's requirements mean to guarantee "that defendants enjoy fair notice of

what the claims against them are and the grounds upon which they rest." *TV Commc'ns Network, Inc. v ESPN, Inc.*, 767 F. Supp. 1062, 1069 (D. Colo. 1991).

Pro se litigants are not excused from complying with these minimal pleading demands. "This is so because a pro se plaintiff requires no special legal training to recount the facts surrounding his alleged injury, and he must provide such facts if the court is to determine whether he makes out a claim on which relief can be granted." *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). Moreover, it is improper for the Court "to assume the role of advocate for a pro se litigant." *Id.* Thus, the Court cannot "supply additional facts, [or] construct a legal theory for plaintiff that assumes facts that have not been pleaded." *Dunn v. White*, 880 F.2d 1188, 1197 (10th Cir. 1989).

Plaintiff should consider the following points before refiling his complaint. First, the revised complaint must stand entirely on its own and shall not refer to, or incorporate by reference, any portion of the original complaint. *See Murray v. Archambo*, 132 F.3d 609, 612 (10th Cir. 1998) (stating amended complaint supersedes original).

Second, the complaint must clearly state what each defendant--typically, a named government employee--did to violate Plaintiff's civil rights. *See Bennett v. Passic*, 545 F.2d 1260, 1262-63 (10th Cir. 1976) (stating personal participation of each named defendant is essential allegation in civil-rights action). "To state a claim, a complaint must 'make clear exactly who is alleged to have done what to whom.'" *Stone v. Albert*, No. 08-2222, slip op. at 4 (10th Cir. July 20, 2009) (unpublished) (emphasis in original) (quoting *Robbins v. Oklahoma*, 519 F.3d 1242, 1250 (10th Cir. 2008)).

Third, Plaintiff cannot name an individual as a defendant based solely on his or her supervisory position. *See Mitchell v. Maynard*, 80 F.2d 1433, 1441 (10th Cir. 1996) (stating supervisory status alone does not support § 1983 liability).

**ORDER**

**IT IS HEREBY ORDERED that:**

- (1) Plaintiff must within thirty days cure the Amended Complaint's deficiencies.
- (2) The Clerk's Office shall mail Plaintiff a copy of the Pro Se Litigant Guide with a form complaint and form habeas petition for Plaintiff to use should he choose to file an amended complaint or habeas petition.
- (3) If Plaintiff fails to timely cure the above deficiencies according to this Order's instructions, this action will be dismissed without further notice.
- (4) Plaintiff's motion for challenge to an unconstitutional challenge is **DENIED**, (*see* Docket Entry # 5); any constitutional challenge shall instead be filed as a claim in a second amended complaint, if filed.

DATED this 28th day of July, 2016.

BY THE COURT:



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JUDGE JILL N. PARRISH  
United States District Judge